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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson,**

Plaintiff,

V.

**Jack M. Lapidos**, in individual and  
representative capacity as trustee of  
The Elizabeth Ann Taisch Trust  
dated March 10, 2000;

**Eric Mankuta**, in individual and  
representative capacity as trustee of  
The Elizabeth Ann Taisch Trust  
dated March 10, 2000:

dated March 10, 2000;  
**Steve Chao**, in individual and  
representative capacity as trustee of  
The Elizabeth Ann Taisch Trust  
dated March 10, 2000;  
UK Stamps Inc., California

**UK Star, Inc., a California Corporation; and Does 1-10,**

## Defendants.

Case No.

# **Complaint For Damages And Injunctive Relief For Violations Of: American's With Disabilities Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of Defendants Jack M. Lapidos, in individual and representative capacity as trustee of The Elizabeth Ann Taisch Trust dated March 10, 2000; Eric Mankuta, in individual and representative capacity as trustee of The Elizabeth Ann Taisch Trust dated March 10, 2000;

1 Steve Chao, in individual and representative capacity as trustee of The  
2 Elizabeth Ann Taisch Trust dated March 10, 2000; UK Star, Inc., a California  
3 Corporation; and Does 1-10 (“Defendants”), and alleges as follows:

4

5 **PARTIES:**

6 1. Plaintiff is a California resident with physical disabilities. Plaintiff is a  
7 level C-5 quadriplegic. He cannot walk and also has significant manual  
8 dexterity impairments. He uses a wheelchair for mobility and has a specially  
9 equipped van.

10 2. Defendants Jack M. Lapidos, Eric Mankuta and Steve Chao, in  
11 individual and representative capacity as trustees of The Elizabeth Ann Taisch  
12 Trust dated March 10, 2000, owned the real property located at or about 972  
13 Sutter Street, San Francisco, California, in November 2017.

14 3. Defendants Jack M. Lapidos, Eric Mankuta and Steve Chao, in  
15 individual and representative capacity as trustees of The Elizabeth Ann Taisch  
16 Trust dated March 10, 2000, owned the real property located at or about 972  
17 Sutter Street, San Francisco, California, in February 2018.

18 4. Defendants Jack M. Lapidos, Eric Mankuta and Steve Chao, in  
19 individual and representative capacity as trustees of The Elizabeth Ann Taisch  
20 Trust dated March 10, 2000, own the real property located at or about 972  
21 Sutter Street, San Francisco, California, currently.

22 5. Defendant UK Star, Inc. owned the Mithila Hotel located at or about  
23 972 Sutter Street, San Francisco, California, in November 2017.

24 6. Defendant UK Star, Inc. owned the Mithila Hotel located at or about  
25 972 Sutter Street, San Francisco, California, in February 2018.

26 7. Defendant UK Star, Inc. owns the Mithila Hotel (“Hotel”) located at or  
27 about 972 Sutter Street, San Francisco, California, currently.

1       8. Plaintiff does not know the true names of Defendants, their business  
2 capacities, their ownership connection to the property and business, or their  
3 relative responsibilities in causing the access violations herein complained of,  
4 and alleges a joint venture and common enterprise by all such Defendants.  
5 Plaintiff is informed and believes that each of the Defendants herein,  
6 including Does 1 through 10, inclusive, is responsible in some capacity for the  
7 events herein alleged, or is a necessary party for obtaining appropriate relief.  
8 Plaintiff will seek leave to amend when the true names, capacities,  
9 connections, and responsibilities of the Defendants and Does 1 through 10,  
10 inclusive, are ascertained.

11

12       **JURISDICTION & VENUE:**

13       9. The Court has subject matter jurisdiction over the action pursuant to 28  
14 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
15 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

16       10. Pursuant to supplemental jurisdiction, an attendant and related cause  
17 of action, arising from the same nucleus of operative facts and arising out of  
18 the same transactions, is also brought under California's Unruh Civil Rights  
19 Act, which act expressly incorporates the Americans with Disabilities Act.

20       11. Venue is proper in this court pursuant to 28 U.S.C. § 1331(b) and is  
21 founded on the fact that the real property which is the subject of this action is  
22 located in this district and that Plaintiff's cause of action arose in this district.

23

24       **FACTUAL ALLEGATIONS:**

25       12. Plaintiff went to the Hotel in November 2017 and February 2018.

26       13. The Hotel is a facility open to the public, a place of public  
27 accommodation, and a business establishment.

28       14. Guestrooms are one of the facilities, privileges, and advantages offered

1 by Defendants to patrons of the Hotel.

2 15. Unfortunately, none of the guest rooms at the Hotel are accessible to  
3 wheelchair users.

4 16. Currently, there are no accessible guestrooms at the Hotel.

5 17. Paths of travel are also one of the facilities, privileges, and advantages  
6 offered by Defendants to patrons of the Hotel.

7 18. However, the path of travel to the Hotel entrance required a person to  
8 navigate steps for which there was no ramp.

9 19. Currently, the path of travel to the Hotel entrance requires a person to  
10 navigate steps for which there is no ramp.

11 20. Plaintiff personally encountered these barriers.

12 21. These inaccessible conditions denied the plaintiff full and equal access  
13 and caused him difficulty, discomfort, and embarrassment.

14 22. Plaintiff plans to return and patronize the Hotel but will be deterred  
15 from visiting until the defendants remove the barriers.

16 23. The defendants have failed to maintain in working and useable  
17 conditions those features required to provide ready access to persons with  
18 disabilities.

19 24. The barriers identified above are easily removed without much  
20 difficulty or expense. They are the types of barriers identified by the  
21 Department of Justice as presumably readily achievable to remove and, in fact,  
22 these barriers are readily achievable to remove. Moreover, there are numerous  
23 alternative accommodations that could be made to provide a greater level of  
24 access if complete removal were not achievable.

25 25. Plaintiff is deterred from returning and patronizing the Hotel because  
26 of his knowledge of the barriers that exist. Plaintiff will, nonetheless, return to  
27 assess ongoing compliance with the ADA and will return to patronize the Hotel  
28 as a customer once the barriers are removed.

1       26. Given the obvious and blatant nature of the barriers and violations  
 2       alleged herein, the plaintiff alleges, on information and belief, that there are  
 3       other violations and barriers on the site that relate to his disability. Plaintiff will  
 4       amend the complaint, to provide proper notice regarding the scope of this  
 5       lawsuit, once he conducts a site inspection. However, please be on notice that  
 6       the plaintiff seeks to have all barriers related to his disability remedied. See  
 7       *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
 8       encounters one barrier at a site, he can sue to have all barriers that relate to his  
 9       disability removed regardless of whether he personally encountered them).

10

11       **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS  
 12       WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
 13       Defendants.) (42 U.S.C. section 12101, et seq.)

14       27. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 15       again herein, the allegations contained in all prior paragraphs of this  
 16       complaint.

17       28. Under the ADA, it is an act of discrimination to fail to ensure that the  
 18       privileges, advantages, accommodations, facilities, goods and services of any  
 19       place of public accommodation is offered on a full and equal basis by anyone  
 20       who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
 21       § 12182(a). Discrimination is defined, *inter alia*, as follows:

22       a. A failure to make reasonable modifications in policies, practices,  
 23       or procedures, when such modifications are necessary to afford  
 24       goods, services, facilities, privileges, advantages, or  
 25       accommodations to individuals with disabilities, unless the  
 26       accommodation would work a fundamental alteration of those  
 27       services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).

28       b. A failure to remove architectural barriers where such removal is

1           readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
2           defined by reference to the ADAAG, found at 28 C.F.R., Part 36,  
3           Appendix "D."

4           c. A failure to make alterations in such a manner that, to the  
5           maximum extent feasible, the altered portions of the facility are  
6           readily accessible to and usable by individuals with disabilities,  
7           including individuals who use wheelchairs or to ensure that, to the  
8           maximum extent feasible, the path of travel to the altered area and  
9           the bathrooms, telephones, and drinking fountains serving the  
10           altered area, are readily accessible to and usable by individuals  
11           with disabilities. 42 U.S.C. § 12183(a)(2).

12           29. When transient lodging is provided, i.e., motels, hotels and similar  
13           establishments, there must be a certain number of accessible sleeping rooms  
14           or suites. 1991 Standards § 9.1.2.

15           30. Here, none of the guestrooms are accessible to wheelchair users.

16           31. There must be an accessible path of travel that connects all buildings,  
17           elements and spaces on the same site. 1991 Standards § 4.3.2. To be  
18           considered an accessible route, there cannot be a stair or step. 1991 Standards  
19           § 4.3.8. Any such change in level measuring greater than  $\frac{1}{2}$  inch must have a  
20           ramp or lift. *Id.* 2010 Standards § 303.4.

21           32. Here, the unramped steps are a violation of the ADA.

22           33. A public accommodation must maintain in operable working condition  
23           those features of its facilities and equipment that are required to be readily  
24           accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

25           34. Here, the failure to ensure that the accessible facilities were available  
26           and ready to be used by the plaintiff is a violation of the law.

27           35. Given its location and options, plaintiff will continue to desire to  
28           patronize the Hotel but he has been and will continue to be discriminated

1 against due to the lack of accessible facilities and, therefore, seeks injunctive  
2 relief to remove the barriers.

3

4 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
5 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
6 Code § 51-53.)

7 36. Plaintiff repleads and incorporates by reference, as if fully set forth  
8 again herein, the allegations contained in all prior paragraphs of this  
9 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, *inter alia*,  
10 that persons with disabilities are entitled to full and equal accommodations,  
11 advantages, facilities, privileges, or services in all business establishment of  
12 every kind whatsoever within the jurisdiction of the State of California. Cal.  
13 Civ. Code § 51(b).

14 37. The Unruh Act provides that a violation of the ADA is a violation of the  
15 Unruh Act. Cal. Civ. Code, § 51(f).

16 38. Defendants’ acts and omissions, as herein alleged, have violated the  
17 Unruh Act by, *inter alia*, denying, or aiding, or inciting the denial of, Plaintiff’s  
18 rights to full and equal use of the accommodations, advantages, facilities,  
19 privileges, or services offered.

20 39. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
21 discomfort or embarrassment for the plaintiff, the defendants are also each  
22 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
23 (c).)

24 40. Although the plaintiff was markedly frustrated by facing discriminatory  
25 barriers and this frustration possibly qualifies as an emotional distress injury,  
26 even manifesting itself with minor and fleeting physical symptoms, the  
27 plaintiff does not value this very modest frustration and physical personal  
28 injury greater than the amount of the statutory damages.

1                   **PRAYER:**

2                   Wherefore, Plaintiff prays that this Court award damages and provide  
3                   relief as follows:

4                   1. For injunctive relief, compelling Defendants to comply with the  
5                   Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
6                   plaintiff is not invoking section 55 of the California Civil Code and is not  
7                   seeking injunctive relief under the Disabled Persons Act at all.

8                   2. Damages under the Unruh Civil Rights Act, which provides for actual  
9                   damages and a statutory minimum of \$4,000.

10                  3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
11                  to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

12

13                  Dated: May 23, 2018

                          CENTER FOR DISABILITY ACCESS

14

15                  By:   
16                  Russell Handy, Esq.  
17                  Attorney for plaintiff